

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JULIE A. DRIFKA,

Plaintiff,

v.

Case No. 18-cv-304-pp

COMMISSIONER OF THE
SOCIAL SECURITY ADMINISTRATION,

Defendant.

**ORDER DECLINING TO ADOPT RECOMMENDATION (DKT. NO. 5) AND
ORDERING THE CLERK'S OFFICE TO REASSIGN THE CASE TO JUDGE
DUFFIN FOR FURTHER PROCEEDINGS**

On February 28, 2018, the plaintiff, who is representing herself, filed an appeal of the denial of her application for Social Security benefits. Dkt. No. 1. The clerk of court sent each party a consent form, asking whether they would agree to have Magistrate Judge Duffin preside over the case. Dkt. No. 1. The plaintiff also filed a motion for leave to proceed without prepayment of the filing fee. Dkt. No. 2. On March 27, 2018, the clerk of court sent a second letter to the plaintiff asking her to file a consent/refusal form no later than April 10, 2018. Dkt. No. 3. When the plaintiff failed to file the form by April 10, the clerk of court sent a "final notice" to the plaintiff asking the plaintiff to file the form no later than April 24, 2018. Dkt. No. 4. Two days after the deadline passed, Judge Duffin issued a recommendation that this court dismiss the case because of the plaintiff's repeated failure to comply with the standing order of

the chief judge to return the consent/refusal form. Dkt. No. 5. Judge Duffin explained that the plaintiff had fourteen days from service of the recommendation to file an objection. Id. Four days after Judge Duffin entered the recommendation, the court received the plaintiff's form; she consented to Judge Duffin presiding over her case. Dkt. No. 6.

Neither of the clerk's notices told the plaintiff that if she didn't file the form, the court might dismiss her case. The clerk's office mailed the recommendation for dismissal to the plaintiff at her residence in Hartford, Wisconsin on April 26, 2018. Within four days of mailing, the plaintiff had filed the consent form with the court. While the court expects compliance with all *orders*, the plaintiff may not have viewed the letters from the clerk of court asking the plaintiff to "please complete and file" as "orders." Now that the plaintiff has consented, the court will order the clerk's office to return the case to Judge Duffin for a ruling on the plaintiff's motion for leave to proceed without prepayment of the filing fee.

The court **DECLINES** to adopt the recommendation. Dkt. No. 5. The court **ORDERS** that the clerk of court shall **REASSIGN** this case to Judge Duffin for further proceedings.

Dated in Milwaukee, Wisconsin this 29th day of May, 2018.

BY THE COURT:



HON. PAMELA PEPPER
United States District Judge